

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW

NO. 2016 - 030

BEING A BY-LAW TO AMEND BY-LAW NO. 2004 - 28 - BEING A BY-LAW TO ENACT RULES AND REGULATIONS FOR THE INSTALLATION, REPAIR, MAINTENANCE, AND ACCESS TO WATER METERS IN THE MUNICIPALITY OF KINCARDINE

WHEREAS Section 11 (3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a lower-tier municipality may pass by-laws, respecting matters within the sphere of jurisdiction of public utilities;

AND WHEREAS pursuant to the said *Municipal Act*, Section 8 (1) and 9 provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS By-law No. 2004 - 28 was passed on the 3rd day of March, 2004 to enact rules and regulations for the installation, repair, maintenance and access to water meters in the Municipality of Kincardine;

AND WHEREAS the Council of the Municipality of Kincardine deems it necessary to amend said by-law

NOW THEREFORE the Council of The Corporation of the Municipality of Kincardine **ENACTS** as follows:

1. That Section 5 be amended to include:

a) When ES. 5.1, Frozen Service Policy is put into effect, premises detailed by this policy would be exempt from the provision in Section 5

That Section 9 a) be amended to include "as per the Consolidated Fee By-law".

2. That Section 11 be amended to include:

h) If a consumer does not respond to requests made by the Municipality to gain access to the meter for any reason, the owner will be charged four times (4 times) the minimum for each billing period.

i) During the installation or the removal of a meter, where the piping is damaged as a consequence of the defective condition of the piping, the property owner shall install new piping at their complete and sole expense.

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j) Disconnection Process - At the request of an applicant and where a demolition permit has been issued by the Municipality of Kincardine, a minimum of two working days' notice is required for turning off/disconnection of the water service.

No person shall demolish a building or allow a building to be demolished until the water meter reading is obtained and the water meter and remote readout unit are recovered by the Water Purveyor.

3. That Section 13 be amended to include:

f) After the disconnection process has been followed as per Section 11 j), the Water Purveyor shall exempt the owner from Section 13.

4. This by-law shall come into force and effect upon its final passage.

5. This By-law may be cited as the "2004 Water Meter Amendment By-law"

READ a FIRST and SECOND TIME this 9th day of March, 2016.

READ a THIRD TIME and FINALLY PASSED this 9th day of March, 2016.

Original Signed By
Mayor – Anne Eadie

Original Signed by
Clerk – Donna MacDougall

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW **NO. 2004 – 28**

BEING A BY-LAW TO ENACT RULES AND REGULATIONS FOR THE INSTALLATION, REPAIR, MAINTENANCE, AND ACCESS TO WATER METERS IN THE MUNICIPALITY OF KINCARDINE

WHEREAS the Municipality of Kincardine proposes to install water meters on all residential, industrial, commercial, and institutional establishments in all Municipal water systems.

AND WHEREAS the Municipality of Kincardine deems it necessary and desirable to regulate the installation, repair, maintenance and access to water meters, and to set fixed and volumetric rates for various classes of water consumers.

AND WHEREAS a lower-tier Municipality may pass by laws respecting public utilities, including water production, treatment, storage and distribution where Counties are not assigned exclusive jurisdiction. Municipal Act 2001, c.25, s11, (2) Table; 2002

AND WHEREAS a public utility is defined as a system providing water services to the public. Municipal Act 2001, c.25, s1 (1)

AND WHEREAS connections to potable water systems shall be designed and installed so that non-potable water or substances that may render the water non- potable cannot enter the system. Building Code Act 1992-O.Reg 403/97 7.6.2.1 (1);

AND WHEREAS in situations where the water supply is to be metered, the installation of the meter, including the piping that is part of the meter installation and the valving arrangement for the meter installation shall be according to the Water Purveyor's requirements. Building Code Act, 1992-O. Reg. 403/97 7.6.1.3 (5)

AND WHEREAS a Municipality may, at reasonable times, enter on land to which it supplies a public utility,

- (a) to inspect, repair, alter or disconnect the service pipe or wire, valving, machinery, equipment and other works used to supply a public utility: or
- (b) to inspect, install, repair, replace or alter a public utility meter. Municipal Act 2001, c.25, s80 (1)

AND WHEREAS a Municipality, after reasonable notice is given, may shut off or reduce the supply of the public utility to the land. Municipal Act 2001, c.25, s80 (2)

AND WHEREAS a Municipality, after reasonable notice is given, may shut off the supply of a public utility by the Municipality to land if fees and charges payable by the owners or occupants of the land for the supply of the public utility to the land are overdue. Municipal Act 2001, c.25, s81 (1)

AND WHEREAS a Municipality may recover all fees and charges payable despite shutting off the supply of the public utility. Municipal Act 2001, c.25, s81 (4)

AND WHEREAS the Municipality may allocate the available public utility among its consumers if the supply of a public utility to a Municipality is interrupted or reduced. Municipal Act 2001, c.25, s82 (2)

AND WHEREAS a Municipality may, as a condition of supplying or continuing to supply a public utility, require reasonable security be given for the payment of fees and charges for supply of the public utility or for extending public utility to land. Municipal Act 2001, c.25, s83

AND WHEREAS a Municipality may pass by laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it. Municipal Act 2001, c.25, s391 (a)

AND WHEREAS a Municipality may pass a by law that will provide for:

- (a) interest charges and other penalties, including the payment of collection costs, for fees and charges that are due and unpaid;
- (b) discounts and other benefits for early payments of fees and charges;
- (c) fees and charges that vary on any basis the Municipality consider appropriate and specifies in the by law, including the level or frequency of service or activity provided or done, the time of day or of year the service or activity is provided and whether the class of persons paying the fee or charge are residents or non-residents of the Municipality;
- (d) different classes of persons and deal with each class in a different way; and
- (e) the exemption, in whole or in part, of any class of persons from all or any part of the by-law. Municipal Act 2001, c.25, s396 (1).

AND WHEREAS fees and charges imposed by a Municipality on a person constitutes a debt of the person to the Municipality. Municipal Act 2001, c.25, s398 (1)

AND WHEREAS the Treasurer of a Municipality may add fees and charges to the tax roll of the property to which the public utility was supplied and collect them in the same manner as municipal taxes. Municipal Act 2001, c.25, s398 (2)

NOW THEREFORE the Municipality of Kincardine enacts as follows:

DEFINITIONS

1. In this by-law:
 - 1.1 "**building**" shall mean a structure supplied with water services by the Municipality.
 - 1.2 "**building control valve**" means the valve in a supply system that controls the flow of potable water from the service pipe to the distributing pipe.
 - 1.3 "**consumer**" for the purposes of supply of water shall mean the owner or occupant of property which is serviced by, connected to, and takes water from the Municipality's water works.
 - 1.4 "**contractor**" shall mean a person, partnership, or corporation who contracts to undertake the execution of work commissioned by an owner or the Municipality to install or maintain water meters and other appurtenances.
 - 1.5 "**Corporation**" shall mean The Corporation of The Municipality of Kincardine.
 - 1.6 "**council**" shall mean the Council of The Municipality of Kincardine.
 - 1.7 "**curb stop**" shall mean the valve on the water service or private main owned and used by the Municipality to shut off or turn on the water supply from the Municipality's water distribution system to any premises.
 - 1.8 "**developer**" shall mean the owner or firm specifically named in a Development Agreement or in a Subdivision Agreement.
 - 1.9 "**external use of water**" shall mean the use of water for any purpose outside the walls of any building located at a Municipal address.
 - 1.10 "**individual water service pipe**" means any service where the water use of any additional dwelling or other units on that service pipe cannot, for practical or economic reasons, be metered.
 - 1.11 "**individual establishment**" shall mean any property or premises capable of being serviced, within the limits of practicality or economics, by an individual water service pipe.
 - 1.12 "**Water Purveyor**" means the Public Works Manager of the Municipality of Kincardine and for the purpose of exercising any of the powers or duties of the Public Works Manager under this by-law shall include any employee of the Corporation or authorized agent authorized by the said Public Works Manager to exercise any power or duty.
 - 1.13 "**meter**" shall mean the water meter supplied and owned by the Municipality to measure the quantity of water used by the consumer.
 - 1.14 "**meter pit**" shall mean any chamber or pit installed where the water service enters the owner's property dug below the frost line outside a building where approved by the municipality for the purpose of containing a water meter.

- 1.15 “**minimum charge**” shall mean the charge applied to any premises with pipes connecting it to the Municipal water even if no water is used.
- 1.16 “**multiple unit building**” shall mean a single building, served by a private water service, and containing two or more living or other units not served by an individual water service pipe.
- 1.17 “**Municipality**” shall mean The Corporation of The Municipality of Kincardine.
- 1.18 “**pressure reducing valve**” shall mean an assembly or valve that limits the water pressure in an owner’s premises.
- 1.19 “**occupant**” shall include any lessee, tenant, owner, the agent of a lessee, tenant or owner, or any person in possession of a premises.
- 1.20 “**owner**” shall include any person, persons or any firm or corporation that is the registered owner of the property under consideration or any agent thereof, a person entitled to a limited estate in land, a trustee in whom land is vested, a committee of the estate of a mentally incompetent person, an executor, an administrator or a guardian.
- 1.21 “**potable water**” shall mean water that is fit for human consumption.
- 1.22 “**premises**” shall mean the property being supplied or to be supplied with water by means of an individual service pipe or by an individual connection to the waterworks treatment system.
- 1.23 “**premises with multiple buildings**” shall mean the property with individual buildings.
- 1.24 “**private water service**” shall mean the pipes and fixtures used for the purpose of supplying any premises in the Municipality with water from the water works established by the Municipality and situated between the street line in front of or abutting the premises so supplied and the premises.
- 1.25 “**remote read-out unit**” shall mean the device installed at a separate location from the water meter and used to provide electronic access to the consumption reading on the meter.
- 1.26 “**single residential dwelling**” shall mean a single dwelling which is restanding, separate and detached from other main buildings or main structures, including a split level dwelling.
- 1.27 “**stop and drain valve**” means the water shut off with an automatic drain from the private service located on private property eight feet from the Municipal curb stop.
- 1.28 “**valve**” means a device for controlling the flow of water through a pipe.
- 1.29 “**watermain**” means a primary pipe in any one area used for the supply of potable water.
- 1.30 “**water service**” means all of the physical and mechanical equipment and devices to fully and completely service a property with water from the water main to the curb stop.

- 1.31 **“waterworks system”** includes any Municipally owned buildings, structures, plants, equipment, appurtenances, devices, conduits, intakes, outlets, underground pipelines and installations and other works designed for the production, treatment, transmission, distribution and storage of water and includes lands.

WATER METER AND INSTALLATION

2. All water supplied through existing and new private water services for use on premises connected to any of the Municipally owned water systems shall pass through a meter owned by the Municipality for use upon such premises and the rates charged shall be those fixed from time to time by the Municipality, as provided for under Sections 391 (a) and 396 (1) of Chapter 25 of the Municipal Act 2001, and the owner of the premises will be held liable for all water charges.
3.
 - a) All meters shall be furnished and installed by persons authorized by the Municipality for that purpose, as per regulation.
 - b) The cost of installing meters owned by the Municipality, shall be paid by the owner of the private water service. If the meter is mechanically defective, then the cost of repairs shall be paid by the Municipality, but if the meter is damaged by the carelessness or neglect of any person other than an employee or agent of the Municipality, the owner of the premises shall pay to the Municipality the cost of making the necessary repair to such meter.
4. If a meter fails to register, the consumer shall be charged for the consumption in a previous pertinent period which shall not exceed the previous twelve (12) months, for that consumer or with the consumption of a similar consumer for the applicable period as determined by the Municipality.
5. All water passing through a meter will be charged for, whether used or wasted.
6. The owner of premises to be supplied with water agrees to provide convenient, adequate and safe space, free of charge or rent, for the Municipality's meter, pipes and other appliances on said premises, and further agrees that no one who is not a servant or agent of the Municipality or otherwise lawfully entitled to do so, shall be permitted to remove, inspect or tamper with any of the Municipality's said meter, pipes or other appliances.
7. The owner of the premises to be supplied with water agrees to provide adequate heat in the premises to prevent frost damage to the meter. Any property where the pipes are exposed to freezing, a stop and drain valve shall be installed on the water service pipe at least two meters from the exterior wall of the building.
8.
 - a) The owner or occupant of premises shall provide ready and convenient access to the meter, in said premises, so that it may be frequently read and examined by persons authorized by the Municipality for that purpose pursuant to the requirements of the water purveyor. Further, the “remote read-out unit” shall be located as close as possible on the driveway side of the premises.
 - b) Where a meter cannot be conveniently placed inside a building, it shall be placed in a meter pit located outside the building where the water service enters the owner's property, the exact location and construction of which shall be discussed with the owner or occupant of the premises as provided for in Section 12 of the by-law, and as

approved by persons authorized by the Municipality, and the cost of which is paid for by the owner, or

- c) On a case by case basis, where in the opinion of the Water Purveyor, the installation of a water meter is not practical, the said building is exempt from the requirement to install the meter. The said owner would be charged three times the minimum charge for each billing period.
- 9.
- a) A meter will be removed and tested by the Municipality upon a written request from the consumer. If the meter is found to register correctly or not in excess of 3% in favour of the Municipality, the consumer requesting the test will be billed for the cost of the test and any expenses incurred in removing and testing the meter.
 - b) If a meter, when tested, is found to register in excess of 3% in favour of the Municipality, a refund will be made to the consumer of an amount equal to such excess percentage of the water rates charged on previous water and sewer billings, if said sewer rates are based on the water billing, which in no case shall exceed twelve (12) months prior to the testing of the said meter and there shall be no cost charged to the consumer for undertaking the test. Provided, however, that no reduction shall be made which will reduce the water rates for the twelve (12) months prior to the testing of such meter below the minimum charge fixed by Council.
10. No reduction shall be made as provided in Section 9, if the owner or occupant of the building has not complied with the provisions of this by-law.
- 11.
- a) One meter shall be placed in each existing or new residential, commercial, industrial and institutional establishments in the Municipality, and the plumbing shall be so arranged that all water used on such premises shall pass through such meter and the owner of the premises will be held liable for water charges.
 - b) Consumers having previously installed a lawn irrigation system, or any other water consuming system or device that is connected to the water service pipe at a location that is before the water meter location, shall be required to alter the connection to the water service pipe in such a manner that all water provided to the site passes through the water meter. Failure to comply with this requirement may result in the penalty provisions of Section 16.
 - c) Every meter shall be placed in such location as the persons authorized by the Water Purveyor shall direct. If possible, the water meter shall be installed in the basement of buildings, and shall be located after the building control valve on the owner's plumbing, so as to ensure that all water supplied to the property passes through the meter. A shut off valve shall be installed immediately upstream of the meter. In the event that a building has no basement, the water meter shall be installed in another location in the building or in a meter pit, as directed by the Water Purveyor.
 - d) The location of a meter, when once installed to the standards of the Municipality shall not be changed by any person except with the written consent of the persons authorized by the Water Purveyor.
 - e) Where the meter is equipped with a "remote read-out unit" of any type and a discrepancy occurs between the reading at the register of the meter itself and the reading on the remote read-out device, the

Municipality will consider the reading at the meter to be correct, and will adjust and correct the consumer's account accordingly, in accordance with Section 9(b).

- f) Any leak that may develop at the meter or any of the couplings must be reported immediately to the Water Purveyor.
 - g) Refusal to be Metered – If it is physically possible for an owner to have a water meter installed, but refuses to allow one to be installed, the consumer will be charged four times (4 times) the minimum charge for each billing period.
12. The Municipality may enter into agreements with owners to provide for the installation of private water services or meters.
13. a) Billings shall be rendered in accordance with the Consolidated Fee By-law.
- b) The minimum charge for water supply established in the Consolidated Fee By-law, shall apply to all premises at all times.
- c) Customers in arrears for water supplied, or customers in arrears for non-payment of expenses incurred by the Municipality pursuant to clause 3 (b) of this by-law, are liable to disconnection of service. Charges will be made for reconnection of services to the premises. (Municipal Act, 2001, S.O. 2001, c.25, as amended, S.81(1); S.81(2); S.81 (3); S.81(4)).
- d) The Municipality may add arrears for water supplied, or arrears for non-payment of expenses, noted in clause (c) above, to the tax roll of the property to which the public utility was supplied and collect them in the same manner as municipal taxes. Municipal Act, 2001, c.25, s398(2)
- e) The Municipality will make every effort to ensure water billing is accurate; however, billing errors can occur, the Municipality reserves the right to collect under billed amounts at any time.

REGULATIONS AND PENALTIES FOR OFFENCES

14. In accordance with Sections 425 (1) and 426(1) of Chapter 25 of the Municipal Act 2001:

Every person who,

- (i) willfully hinders or interrupts, or causes or procures to be hindered or interrupted, the Corporation or any of its officers, contractors, agents, servants or worker, in the exercise of any of the power conferred by this by-law;
- (ii) willfully and/or maliciously lets off or discharges water so that the water runs waste or useless out of the works;

- (iii) being a owner or occupant of any house, building or other place supplied with water from the water works, improperly wastes the water or, without the consent of the Corporation improperly lends, sells or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, or increases the supply of water agreed for;
 - (iv) without lawful authority willfully opens or closes any valve or hydrant, or obstructs the free access to any hydrant, stopcock, valve, chamber or pipe by placing on it any building material, rubbish or other obstruction;
 - (v) throws or deposits any injurious, noxious or offensive matter into the water or waterworks, or in any way fouls the water or commits any willful damage or injury to the works, pipes or water, or encourages the same to be done;
 - (vi) willfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered; or
 - (vii) lays or causes to be laid any pipe or main to connect to any pipe or main of the water works, or in any way obtains or uses the water without the consent of the Corporation, is guilty of an offense.
15. Every person who contravenes or causes or permits any contravention of any of the provisions of this by law is guilty of an offence pursuant to the Provincial Offences Act for the Province of Ontario and on conviction is liable to a fine of not more than \$5,000 exclusive of costs.
16. In addition to other sanctions and remedies provided in this by-law, the Municipality may turn off or restrict the supply of water to any consumer where such consumer has violated any of the provisions of this by-law, and may refuse to restore normal service until the violation complained of has been terminated or remedied. The Municipality will not be liable for any damage to property or injury to person by reason of shut-off of water supply.
17. This By-law will supercede any by-law in conflict with this by-law.
18. This By-law shall come into full force and effect upon its final passing.
19. This By-law may be cited as the “2004 Water Meter”, By-law.

READ a FIRST, SECOND, and THIRD time and DEEMED TO BE PASSED this 3rd day of March, 2004.

Original Signed By
Mayor – Glenn Sutton

Original Signed by
Clerk – Rosaline M. Graham